

REMARKS

Applicants have carefully reviewed the Advisory Action and the accompanying Interview Summary (PTO-413). Applicants respectfully wish to point out specific issues for clarification of the record in the instant application.

First, Applicants point out that during the interview on November 25, 2002, SPE Housel indicated that the objection under 35 USC 132 and rejection under 35 USC 112, first paragraph alleging the introduction of new matter (page 2 of the Office Action) will be withdrawn. This is not reflected in either the Advisory Action or the Interview Summary.

Second, Applicants respectfully point out that the Interview Summary refers to the “the inherency of the prior art rejections” which appears to refer to a new basis for rejection not found in the written record in the instant application. None of the previous statements of rejection referred to “inherency” as a basis for the rejection. Applicants only began to address assertions of “inherency” in the Response filed December 10, 2002 because the issue was raised during the interview on November 25, 2002.

In that Response, Applicants pointed out how the instantly claimed methods were not “inherently” disclosed Dropulic et al. (USP 6,232,120) because no prevention of wildtype virus integration is disclosed in Dropulic et al. This was emphasized via a reference to Figures 3 and 4 of Dropulic et al., which show a gradation of inhibition of wildtype virus production that is dependent upon the number of ribozymes expressed by the vector. But if integration of virus was prevented, there would be no gradation based on the number of ribozymes because the amount of the vectors used were the same (about 1.8 µg of vector DNA, see columns 32-34, Examples 3 and 4). Therefore, there is no evidence in Dropulic et al. of an inherent inhibition of virus integration in the methods disclosed by Dropulic et al.

None of this was addressed in the Advisory Action or Interview Summary.

Moreover, and responsive to the statements in the Interview Summary, Applicants again point out that the vectors and disclosure of Dropulic et al. are directed to the expression of a genetic antiviral agent (like a ribozyme) that interferes with wildtype virus production. The instant claims are directed to methods using vectors that do not have to express a genetic antiviral agent. Indeed, the expression of such an agent is explicitly included in dependent claim

18 as an option relative to the broader independent claim. Therefore, there are both structural and functional differences between the claimed methods and those of the cited references.


In light of the above, Applicants believe that the "finality" of the previous Office Action is premature and should be withdrawn to provide the opportunity to clarify the record in the instant application.

In the event that "finality" is maintained in the instant application, Applicants respectfully point out that a continuation application (based on the instant application) has been filed today (March 14, 2003) to provide the opportunity to pursue the instantly claimed invention in a future continuing application.

In the event that the transmittal letter is separated from this document and the Patent Office determines that an extension and/or other relief is required, applicant petitions for any required relief including extensions of time and authorizes the Assistant Commissioner to charge the cost of such petitions and/or other fees due in connection with the filing of this document to **Deposit Account No. 03-1952** referencing docket no. 397272000700. However, the Assistant Commissioner is not authorized to charge the cost of the issue fee to the Deposit Account.

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Respectfully submitted,

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